

# **IOWA DEPARTMENT OF NATURAL RESOURCES AMENDMENT TO ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

THOMAS CHRIS DODGE;

Johnson County, Iowa

AMENDMENT TO ADMINISTRATIVE  
CONSENT ORDER

NO. 2012-SW-21-A1

TO: Chris Dodge  
Tirefly  
4506 Blackhawk Avenue  
Parnell, IA 52325-9765

## **I. SUMMARY**

This Amendment to Administrative Consent Order No.2012-SW-21 (Amendment) is entered into between the Iowa Department of Natural Resources (DNR) and Thomas Chris Dodge (Chris Dodge) for the purpose of providing additional time to Chris Dodge for resolving violations related to the illegal stockpiling of waste tires. The parties have agreed to the provisions below.

Questions regarding this Amendment should be directed to:

**Relating to technical requirements:**

Mark Heiderscheid, Field Office 6  
Iowa Department of Natural Resources  
1023 West Madison  
Atlantic IA 52353-1623  
Phone: 319-653-2135

**Payment of penalty to:**

Director of the Iowa DNR  
Wallace State Office Building  
502 East Ninth Street  
Des Moines, Iowa 50319-0034

**Relating to legal requirements:**

Jon Tack, Attorney for the DNR  
Iowa Department of Natural Resources  
502 E 9<sup>th</sup> St.  
Des Moines, IA 50319  
Phone: 515-281-8889

## **II. JURISDICTION**

This Amendment is issued pursuant to the provisions of Iowa Code section 455D.23, which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of the provisions of Iowa Code chapter 455D and any rule adopted pursuant to this chapter; and Iowa Code sections 455D.22 and 455B.109 and 567 Iowa

**IOWA DEPARTMENT OF NATURAL RESOURCES  
AMENDMENT TO ADMINISTRATIVE CONSENT ORDER  
Thomas Chris Dodge**

Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

1. Thomas Chris Dodge (Chris Dodge) is in the business of collecting and disposing of waste tires. Chris Dodge collects the waste tires from businesses and individuals and stores the waste tires at a rented property at 4506 Black Hawk Avenue, Parnell, Iowa. The owner of the property is Ronald Schintler.

2. – 10. Paragraphs 2 through 10 of section III. Statement of Facts of Administrative Consent Order No.2012-SW-21 are incorporated herein by reference as if stated in full.

11. From the date of execution of Administrative Consent Order No. 2012-SW-21 through the date of execution of this Amendment, Chris Dodge has kept the DNR apprised of the events and circumstances related to his efforts to achieve compliance. Unexpected difficulties in obtaining labor and retaining employees have played a significant role in the inability of Chris Dodge to achieve compliance. The fact that no prior amendments have been requested or provided, the frequency of communication and the fact that an extension was requested at least 30 days prior to the compliance date are factors considered by the DNR in agreeing to this extension and amendment.

12. The parties agree that no further extensions of time or amendments will be granted.

**IV. CONCLUSIONS OF LAW**

1. Iowa Code section 455D.11(4) provides that the DNR shall develop rules for waste tire stockpiling facilities. Iowa Code section 455D.11(5) provides that the DNR shall issue permits to qualified stockpiling facilities. Pursuant to 455D.7, the Environmental Protection Commission (Commission) shall adopt rules necessary to implement Chapter 455D. The Commission has adopted 567 IAC Chapter 117 relating to the management of waste tires.

2. Pursuant to Iowa Code section 455D.11B and 567 IAC 117.4(1)"a", an owner or operator of a waste tire collection site shall obtain a permit from the DNR prior to operation of the site. Pursuant to Iowa Code section 455D.11(1)(d), a "tire collector" includes a person who owns or operates a site used for the storage, collection, or deposit of more than five hundred waste tires. The facts set forth above establish violations of these provisions.

**V. ORDER**

THEREFORE, the DNR orders and Chris Dodge agrees to the following amended and revised compliance requirements which shall supersede and replace the requirements of Administrative Consent Order No.2012-SW-21:

**IOWA DEPARTMENT OF NATURAL RESOURCES  
AMENDMENT TO ADMINISTRATIVE CONSENT ORDER  
Thomas Chris Dodge**

1. By October 1, 2013 Chris Dodge shall have no more than 500 waste tires stored at the property at 4506 Black Hawk Avenue, Parnell, Iowa. All tires removed shall either be sold for reuse or delivered to a legal end user of waste tires. Records shall be maintained of all tire shipments or sales from the site and these records shall be submitted to the DNR on a monthly basis through June of 2014.

2. For all used tires intended for resale, Chris Dodge shall keep such used tires separated from waste tires and shall store them in a manner which allows for a clear visual distinction between waste tires and used tires stored on-site.

3. Beginning October 15, 2013, Chris Dodge shall pay a stipulated penalty of \$1,000 per month for each month until the waste tire stockpile at 4506 Black Hawk Avenue, Parnell, Iowa has been reduced to 500 or less waste tires.

**VI. PENALTY**

1. Iowa Code section 455D.25 authorizes the assessment of civil penalties of up to \$10,000 per day of violation for the waste tire stockpiling violations involved in this matter.

2. The basis for the administrative penalty as set forth in section VI. Penalty in Administrative Consent Order No.2012-SW-21 is hereby incorporated by reference into this Amendment as if stated in full herein.


**VII. WAIVER OF APPEAL RIGHTS**

This Amendment is entered into knowingly and with the consent of Chris Dodge. For that reason Chris Dodge waives his rights to appeal this Amendment or any part thereof.

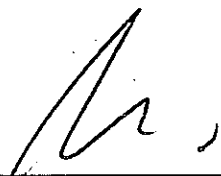
**VIII. NONCOMPLIANCE**

Failure to comply with this Amendment or Administrative Consent Order No.2012-SW-21, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455D.25. Compliance with sections V.1-V.2 of this Amendment constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this Amendment. The DNR reserves the right to issue an administrative order or to refer to the Attorney General's Office in lieu of collecting stipulated penalties pursuant to this Amendment.

IOWA DEPARTMENT OF NATURAL RESOURCES  
AMENDMENT TO ADMINISTRATIVE CONSENT ORDER  
Thomas Chris Dodge

  
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CHUCK GIPP, DIRECTOR  
Iowa Department of Natural Resources

Dated this 16<sup>th</sup> day of  
May, 2013.

  
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CHRIS DODGE

Dated this 30<sup>th</sup> day of  
April, 2013

Field Office #6; V.L.C;